

City of Marietta

205 Lawrence Street Post Office Box 609 Marietta, Georgia 30061

Meeting Minutes CITY COUNCIL

R. Steve Tumlin, Mayor Annette Paige Lewis, Ward 1 Griffin ''Grif'' L. Chalfant, Jr., Ward 2 Johnny Sinclair, Ward 3 G. A. (Andy) Morris, Ward 4 Rev. Anthony C. Coleman, Ward 5 James W. King, Ward 6 Philip M. Goldstein, Ward 7

Wednesday, July 10, 2013

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Annette Lewis, Grif Chalfant, Johnny Sinclair, G. A. (Andy) Morris, Rev. Anthony Coleman, Jim King, and Philip M. Goldstein

Also Present:

William F. Bruton, Jr. City Manager Douglas R. Haynie, City Attorney Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 7:03 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Jim King to give the invocation.

PLEDGE OF ALLEGIANCE:

Council member King called upon Dr. Harlon Crimm to lead the pledge of allegiance.

PRESENTATIONS:

20130721 Distinguished Service Award - Dr. Harlon Crimm

Presentation of Distinguished Service Award to Dr. Harlon Crimm for 12 years of service to the Board of Lights and Water (BLW) Board.

Presented

PROCLAMATIONS:

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

SCHEDULED APPEARANCES:

UNSCHEDULED APPEARANCES:

Dr. Lisa Rossbacher, SPSU President, spoke regarding agenda item 20130555, the MU2LCI Plan on the consent agenda for approval.

Randa Wilburn, longtime resident, expressed concern regarding the Elizabeth Porter and Lawrence Street Recreation Centers.

Charles Livingston, who lives on Kiowa Drive, spoke regarding recent articles in the Marietta Daily Journal.

Dr. Michael Ret, spoke regarding the Juneteenth Celebration and also improvements to the Elizabeth Porter and Lawrence Street Recreation Centers.

MOTIONS:

20130723 Rescission of Urban Redevelopment Bond Resolution

Motion to rescind \$35M Redevelopment Bond (Legistar #20130515) which was adopted on June 12, 2013.

Comments were made by Council member Goldstein.

A motion was made by Council member King, seconded by Council member Sinclair, that this matter be Approved. The motion carried by the following vote:

Vote: 5 - 2 - 0 **Approved**

Voting Against: Anthony Coleman and Philip M. Goldstein

20130725 Rescind employment of bond advisors and bond attorney for the Urban Redevelopment Bond

Motion to rescind employment of bond advisors and bond attorney (Legistar #20130389) adopted on April 17, 2013.

A motion was made by Council member King, seconded by Council member Sinclair, that this matter be Approved. The motion carried by the following vote:

Vote: 5 - 2 - 0 **Approved**

Voting Against: Anthony Coleman and Philip M. Goldstein

20130753 Public Hearing

Public Hearing regarding possible projects to implement using Urban Redevelopment Bond proceeds.

There will be an allotment of one hour for the hearing, with a five minute limit per speaker.

City Attorney Doug Haynie opened the public hearing and called forward those wishing to speak.

The following residents spoke during the public hearing: Larry Wills, who lives on Oakmont Drive. S. Gilreath, longtime resident of Marietta. Ed Bentley, who lives on Whitlock Drive. Jane Sherlock, longtime resident of Marietta.

The public hearing was closed.

Public Hearing Held

20130724 Urban Redevelopment Bond Resolution - November 5th Ballot

Motion to approve Bond Resolution for Urban Redevelopment Bond to be placed on the November 5, 2013 ballot in the amount of \$68,000,000.00.

Brief discussion was held by Council regarding the Bond Resolution and the possibility of allocating funds toward quiet railroad crossings. The City Attorney explained that none of the railroad crossings were located in the current Urban Redevelopment Plan; therefore, funds from this Bond could not be used.

A motion was made by Council member King, seconded by Council member Lewis, that this matter be Approved. The motion carried by the following vote:

Vote: 5 - 2 - 0 **Approved**

Voting Against: Anthony Coleman and Philip M. Goldstein

20130726 Employment of Bond Advisors and Bond Attorney

Motion to employ Dianne McNabb, PFM Group as Financial Consultant for a fee not to exceed \$68,000.00 and Teresa P. Finister of Murray, Barnes, Finister, LLP as Bond Counsel for a fee not to exceed \$60,000.00 and to serve as Disclosure Counsel for a fee not to exceed \$40,000.00 contingent upon the Urban Redevelopment Bond issue passing and based upon a single issuance of bonds.

A motion was made by Council member King, seconded by Council member

Lewis, that this matter be Approved. The motion carried by the following vote:

Vote: 5 - 2 - 0 **Approved**

Voting Against: Anthony Coleman and Philip M. Goldstein

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Mayor Pro tem Andy Morris called upon Council member Johnny Sinclair to preside over this portion of the meeting. Council member Sinclair briefly explained the consent agenda process.

- -under City Council Appointments: Agenda item 20130606 was removed from the agenda.
- -under Ordinances: Agenda item 20120819 should include a revised Map #23 incorporated with the Future Land Use Map.
- -under Economic/Community Development: Agenda item 20130564 was added to the consent agenda.
- -under Other Business: Agenda items 20130770 and 20130730 should show Council member Goldstein abstaining and note the disclosure previously submitted.

City Attorney Doug Haynie opened the public hearing for those items on the consent agenda requiring a public hearing. Seeing no one wishing to speak the public hearing was closed.

(Clerk's Note: A letter was received from Robbie Huck, who lives on Summit Avenue, sent to Council member Lewis in opposition of agenda item 20130555, the MU2LCI Plan on the consent agenda for approval.

A motion was made by Council member Coleman, seconded by Council member Chalfant, to approve the consent agenda as modified. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved

with the following exceptions:

- -Council members Sinclair, Morris and Goldstein opposed to agenda item 20130576.
- -Council members Sinclair and Coleman opposed to agenda item 20130684.

MINUTES:

* 20130751 Regular Meeting - June 12, 2013

Review and approval of the June 12, 2013 meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

MAYOR'S APPOINTMENTS:

CITY COUNCIL APPOINTMENTS:

20130606 Planning Commission Appointment

Consideration of an appointment to the Planning Commission (Ward 3), for a three year term.

Removed

ORDINANCES:

20130390 Z2013-16 Ray L. Beaty 925 Industrial Park Drive

Z2013-16 [SPECIAL LAND USE PERMIT] RAY L. BEATY requests a Special Land Use Permit for a computer and electronics recycling facility for property located in Land Lot 09990, District 16, Parcel 0260, 2nd Section, Marietta, Cobb County, Georgia and being known as 925 Industrial Park Drive, currently zoned HI (Heavy Industrial). Ward 5.

City Attorney Doug Haynie opened the public hearing and explained the rules of order. Mr. Haynie swore in those wishing to speak.

Development Services Director Brian Binzer presented information regarding the Special Land Use Permit request to operate a computer and electronics recycling facility on the property. Mr. Binzer also summarized the criteria for which a Special Land Use Permit should be considered.

Ray Beaty requested approval of the Special Land Use Permit to add an addition to the existing warehouse to accommodate the recycling facility on the property. Mr. Beaty mentioned that there would be no outside storage located on the property and submitted a letter agreement from the owner.

Earl Smith, owner of a neighboring property, mentioned that he had met with Mr. Beaty to discuss this matter, but was still not certain that he could support the project.

Sam Kazemeini, President of ERS International, and Jeffery Mendez presented detailed information about the company and how they recycle the computers and electronics. Mr. Kazemeini mentioned that the entire process is done in an enclosed facility and stated that the noise level and dust would be controlled.

Discussion was held regarding certain aspects of the business such as hours of operation, delivery times and the mechanism in place to control the noise and dust.

A motion was made by Council member Coleman, seconded by Council member Sinclair, that this matter be Tabled.

Further discussion was held. There was general agreement that the following items should be incorporated in a letter of stipulations, with a plan to ensure compliance:

- -hours of operation Mon Fri 8am -6pm
- -deliveries shall be made during hours of operation only, while employees are present
- -recycling of ERS glass only
- -stipulate that there shall be no dust or residual release of dust from the facility
- -all new structures shall be enclosed
- -drawings and booklet presented shall be incorporated as part of the zoning

Mayor Tumlin closed the public hearing.

The motion was made by Council member Coleman, seconded by Council member Sinclair, that this matter be Tabled. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved to Tabled

* 20120819 Future Land Use Map

Motion to amend the Future Land Use Map, a component of the City of Marietta's Comprehensive Plan 2006-2030, according to the attached updated maps.

Public Hearing held during the Consent agenda.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* 20130576 Amendments to the Comprehensive Development Code

Motion to refer proposed changes to the Comprehensive Development Code of the City of Marietta, Division 708.15 Neighborhood Retail Commercial (NRC), Division 708.16 Community Retail Commercial (CRC), Division 708.17 Regional Retail Commercial (RRC), Division 708.18 Central Business District (CBD), Division 708.26 Light Industrial (LI), Division 708.27 Heavy Industrial (HI), Division 712.01 Special Land Use Permits (SLUP) and Division 724.02 Definitions of Terms, regarding brew pubs, breweries, distilleries and wineries back to the Planning Commission and to authorize re-advertisement.

Public Hearing held during the Consent agenda.

This Matter was Approved on the Consent Agenda.

Vote: 4 - 3 - 0 Approved

Voting Against: Johnny Sinclair, Andy Morris and Philip M. Goldstein

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

* 20130694 Denial of Claim

Denial of the claim of Angel Cordle and David Haynes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved to Deny Claim

* 20130722 Denial of Claim

Denial of the claim of Carmen DeJesus.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved to Deny Claim

* 20130720 **Denial of Claim**

Denial of claim of Joshua Phillips.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved to Deny Claim

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

- 1. Economic/Community Development: Grif Chalfant, Chairperson
- * 20130701 FY 2013 CDBG Projects

Motion approving the FY 2013 CDBG Project List as amended. See attached.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* 20130564 Sub-Recipient Agreement

Approval of a Resolution authorizing the execution of the FY 2013 CDBG Program Sub-Recipient Agreement with Cobb County.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

20130716 Consideration of Motion Related to Consulting Services:

Motion to authorize the Economic Development Manager to seek RFQ's for a consultant/developer/professional services provider to work with the City of Marietta and /or Marietta Housing Authority on the acquisition, demolition, sale, re-zoning and/or master planning of property described in the Urban Redevelopment Plan (Franklin-Gateway Redevelopment Area).

A motion was made by Council member Sinclair, seconded by Council member Lewis, that this matter be Approved. The motion carried by the following vote:

Vote: 6 - 0 - 0 Approved Absent for the vote: Philip M. Goldstein

20130729 Intergovernmental Agency Agreement - Marietta Housing Authority

Motion to authorize the City Attorney to draft an IGA with the Marietta Housing Authority relating to the Urban Redevelopment Bond to be brought back for council approval.

A motion was made by Council member Sinclair, seconded by Council member Lewis, that this matter be Approved. The motion carried by the following vote:

Vote: 6 - 0 - 0 Approved Absent for the vote: Philip M. Goldstein

2. Finance/Investment: Annette Lewis, Chairperson

* 20130650 Grant - Governor's Office of Highway Safety

Ord 7670

Approval of an Ordinance amending the Fiscal Year 2013 General Fund Budget to receive and appropriate a grant from the Governor's Office of Highway Safety to purchase an Intoxilyzer 9000.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

20130560 Detail Plan for Manget Phases II, III & IV

Motion to approve the Detailed Plan for Manget Phase II, III & IV (dated July 9, 2013) and signed and dated July 10, 2013 by the owner, in accordance with Section 708.14(J.4) of the Marietta City Code, with the following conditions:

- 1. The following area requirements are incorporated as development standards:
 - a. Minimum Lot Size 1,500 sq.ft.
 - b. Minimum Lot Width 34 ft.
 - c. Maximum Impervious Surface Area 50% (for entire development)
 - d. Minimum Open Space 40% (for entire development)
 - e. Maximum Floor Area Ratio (FAR) 0.55 (for entire development)
- 2. Prior to the issuance of the first Certificate of Occupancy for these three phases, the Manget Home Owners Association will include in their protective covenants provisions to enforce parking regulations on private streets within the community. These covenants must be recorded at the Cobb County Clerk of the Superior Court's office.
- 3. Corner visibility clearance shall be maintained within 15 feet of the intersection of the right of way or alley, unless approved by the Public Works Director and Director of Development Services. [716.04]
- 4. Any encroachments into the stream buffers must be in compliance Stream Buffer Ordinance.
- 5. Minimum travelway widths for one-way alleys will be 14' and two-way streets will be 20'.

In addition, the following variances are approved:

- 1. Variance to reduce the 30' buffer adjacent to 271, 279 & 287 Lakewood Drive. If buffer is disturbed, the Developer will be required to install a 6' high opaque fence and a double row of evergreen trees 12' o.c. staggered. [708.14(I)]
- 2. Variance to allow private alleys as a primary means of access. [716.06]
- 3. Variance to waive cul-de-sac requirements. [730.01(E)]

- 4. Variance to reduce the minimum radii of horizontal curvature of the centerline from 100 ft. to the amount specified on Sheet C2.1. [730.01(H.1)]
- 5. Variance to provide street trees only along the public streets as shown on the submitted plans. [712.08]
- 6. Variance to allow street trees in right of way, as shown on the submitted plans. [712.08(D)]
- 7. Variance to allow understory/ornamental trees such as dogwood, crape myrtles, flowering cherry, etc. due to overhead utilities and allow them to be 2" caliper at the time of planting. [712.08 (G)(2)(b)]

In order to ensure that homes built within the Manget development are built consistent with the 4-Sided Architecture definition, the following language shall be adopted. The homes in the community shall be traditional in nature, and consistent with the house elevations submitted and signed by Brockbuilt Homes and approved by the City of Marietta, dated July 10, 2013. Design features, standards, and requirements incorporated in the homes shall be as follows:

- a. Mixture of materials, with material changes taking place on the interior corners or where roof massing accommodates the change of materials. Mixture of the materials should continue, as appropriate, onto the side and rear elevations, i.e. water tables.
- b. Window muntins appropriate to the style of the home on all four sides of the residence.
- c. Shutters on front, side and rear elevations of the homes, where they can be seen from public or private streets or alleys, and where functionally appropriate.
- d. There shall be a maximum of 20 feet horizontally and vertically between architectural fenestration elements (windows, false shutters, change of material, etc.), except on basement level. This will eliminate large expanses of a single material without a break and add architectural interest to the elevations.

In the event of a disagreement as to being four-sided architecture, the City Manager of the City of Marietta, GA shall be the final arbiter of the plan meeting the criteria.

Brian Binzer, Development Services Director, presented changes to the detailed plan for Manget Phases II, III, and IV. Mr. Binzer mentioned that the developer has met with staff and residents in the area to address any outstanding issues.

Discussion was held regarding the detailed plan and the change regarding the maximum open space for the development. It was also suggested that a stipulation be added to require the HOA to be responsible for the landscaping of the parking areas.

A motion was made by Council member Lewis, seconded by Council member Chalfant, to approve the detailed plan for Manget Phases II, III, (dated July 9, 2013) with the addition of a stipulation that there be a minimum of 30% open space for the development and that the Manget Home Owners Association will be

responsible for maintenance of on street parking spaces located within the public right of way, as well as all landscaping surrounding those spaces.

An amendment to the motion was made by Council member Goldstein to add the following two stipulations:

-The developer will show all parking shown in the public right-of-way be shown on the final plat as public parking before being filed with the Superior Court of Cobb County or signed off by the Marietta City officials

-A note shall be added on the plat that the City of Marietta reserves right to revoke, remove or change public parking that is located in the City right-of-way.

The motion failed for lack of a second as to the amendment.

Mayor Tumlin called for a vote on the original motion made by Council member Lewis, seconded by Council member Chalfant, to approve the detailed plan for Manget Phases II, III, (dated July 9, 2013) with the addition of a stipulation that there be a minimum of 30% open space for the development and that the Manget Home Owners Association will be responsible for maintenance of on street parking spaces located within the public right of way, as well as all landscaping surrounding those spaces.

The motion carried by the following vote:

Vote: 6 - 1 - 0 Approved as Amended

Voting Against: Philip M. Goldstein

20130778 Private Alleys in Manget Phases II, III, & IV

Motion to approve private alleys within the Manget development, Phases 2, 3 & 4, including a variance to allow the alleys to be a primary means of access to the residences within the development. Further, the developer is required to install "No Parking" signs on all alleyways.

A motion was made by Council member Goldstein, seconded by Council member King, that this matter be Approved. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved

* 20130555 MU2LCI Final Draft Plan

Approval of a resolution for the adoption of the Marietta University Enhancement District (MU2) LCI Plan.

Public Hearing held during the Consent agenda.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* 20130697 Kennesaw Avenue Historic District

Motion to authorize advertisement for the public hearing on the designation of the district.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

- 4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson
- 5. Personnel/Insurance: G. A. (Andy) Morris, Chairperson

* 20130692 Consolidated Pension Plan

Ord 7669

Approval of an ordinance amending the City of Marietta/BLW Retirement Plan 4532 (New Consolidated Plan) to clarify the Disability retirement provisions.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

- 6. Public Safety Committee: Anthony Coleman, Chairperson
- 7. Public Works Committee: Jim King, Chairperson

* 20130684 Traffic Calming

Motion authorizing Public Works to collect updated traffic speed and volume data for Wood Valley Drive and Hickory Drive and to postpone opening Hickory Drive and Woodvalley Drive ballots until further notice.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 2 - 0 Approved

Voting Against: Johnny Sinclair and Anthony Coleman

* 20130686 Project Framework Agreements

Motion to approve Project Framework Agreements with GDOT for the intersection improvement projects at Atlanta Street and South Marietta Parkway, North Marietta Parkway and Cobb Parkway.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

20130728 Speed Hump Installation

Motion to approve installation of speed tables on Lee's Trace.

Staff announced that the ballots for the speed tables on Lee's Trace have been opened and counted. Of the 285 ballots received, 172 were in favor and 113 were opposed. As a result of the subdivision meeting the 60% approval requirement, Council would make the final decision as to the installation of speed tables on Lee's Trace.

Discussion was held regarding the results and the installation of speed tables on Lee's Trace.

A motion was made by Council member Chalfant, seconded by Council member Sinclair, to approve installation of speed tables on Lee's Trace.

Resident Bob Manard, who lives on Lee's Trace, was allowed to speak regarding this matter.

Further discussion was held.

A substitute motion was Council member Morris, seconded by Council member Coleman, that this matter be Tabled until next month. The motion was carried by the following vote:

Vote: 6 - 1 - 0 **Tabled** Voting Against: Johnny Sinclair

APPEARANCES:

OTHER BUSINESS:

* 20130741 Marietta Redevelopment Corporation Officers

Motion approving the recommendation of the Marietta Redevelopment Corporation (MRC) Board of Directors to appoint Ron Francis as Chairman and Terry Lee as Vice Chairman of the Marietta Redevelopment Corporation for a one (1) year term.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* 20130770 W&A Railroad Right-of-way

Motion authorizing acquisition of the easements as shown on the attached exhibits along the Western & Atlantic Railroad Right-of-way from State Properties Commission for the purpose of constructing the Kennesaw Mountain to

Chattahoochee River Trail - North & In-town Section in exchange for \$136,320.00 to the State Properties Commission and \$32,120.00 to CSX Transportation.

Council member Goldstein disclosed that he, family members and/or an entity that he owns, own or lease property adjacent to CSX railroad right-of-way.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 Approved

Abstaining: Philip M. Goldstein

* 20130730 CSX Contract

Motion to approve the Construction Agreement from CSX Transportation for the construction of a quad-gate and warning system at the Waverly Way crossing.

Council member Goldstein disclosed that he, family members and/or an entity that he owns, own or lease property adjacent to CSX railroad right-of-way.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 Approved

Abstaining: Philip M. Goldstein

* 20130758 Selection of the auditing firm for FY2013

Motion to proceed with a contract with Crace Galvis McGrath, LLC in the amount of \$68,560 to perform the audit of fiscal year 2013.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

20130765 Speed Hump Policy

Motion to "stay" the current "Speed Hump" policy and suspend and hold all activities of whatever nature and whatever stages thereto, other than those actions already approved by Council, so as to be reviewed and revised as to clarity, definitiveness, completeness, conclusiveness, and reasonableness. Establish an ad hoc review committee of 3 members, with Mayor as Chairman, J/L Chair and Public Works Chair, to address the "language" of the Policy with deference as to substance and purpose for council. Ad Hoc committee to meet, recommend changes to be presented to Council for consideration by August Council meeting. To include a Recommendation with advice of City Attorney as to effective date of final revised Policy or applicability of actions taken under a previously approved Policy.

A motion was made by Council member King, seconded made by Council member Goldstein, to "stay" the current "Speed Hump" policy and suspend and hold all activities of whatever nature and whatever stages thereto, other than those actions already approved by Council, so as to be reviewed and revised as to clarity, definitiveness, completeness, conclusiveness, and reasonableness. Further, this matter shall be referred back to the Public Works Committee for further discussion.

The motion carried by the following vote:

Vote: 6 - 1 - 0 **Approved**

Voting Against: Johnny Sinclair

* 20130752 BLW Actions of the July 8, 2013 meeting

Review and approval of the July 8, 2013 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

UNSCHEDULED APPEARANCES:

A resident from Carriage Oaks made an inquiry regarding the motion approved to "stay" the current "Speed Hump" policy and suspend and hold all activities. It was explained that the motion halted "all activities of whatever nature and whatever stages thereto, other than those actions already approved by Council" until further notice. This would include the balloting process for Carriage Oaks.

ADJOURNMENT:

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Date Approved:	August 14, 2013
R. Steve Tumlin, M	Iayor Tumlin
Attest:	
Stephanie	Guy, City Clerk

The meeting was adjourned at 9:19 p.m.